



**International  
Finance Corporation**  
World Bank Group

# Liability Developments

Delhi,  
22 August 2006



# Topics

- Liability insurance overview
- How to select the right limit?
- Liability claims issues
- Product Liability
- Directors' & Officers' Liability

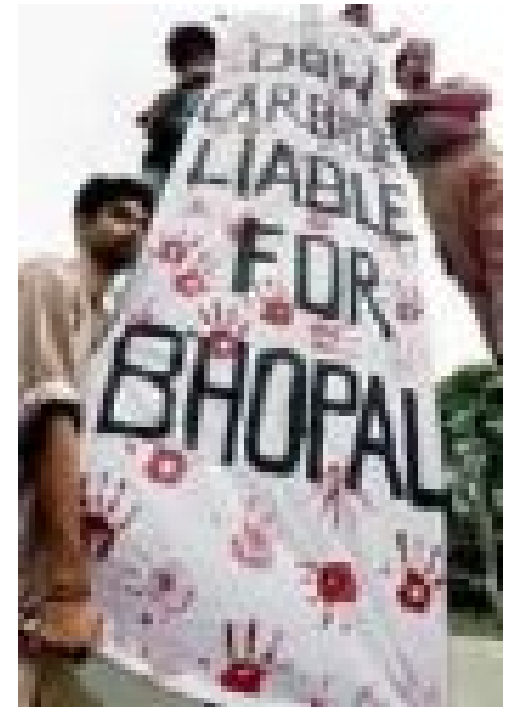
# What Liability Covers are there in India?

- Public Liability
- Product Liability
- Product Recall
- Directors' & Officers' Liability
- Errors & Omissions
- Medical Malpractice
- ...



# Liability Insurance in India

- Public more litigation conscious
- Growth ~ 50%
- Public Liability Act 1991
- Compulsory for Insurance brokers and Airlines
- Move into higher value products and increased exports
- Listing companies abroad
- Attracting outside directors



# What Liability Limit should I buy?



*When asked how long a man's legs should be, Abraham Lincoln replied: "Long enough to reach the ground."*

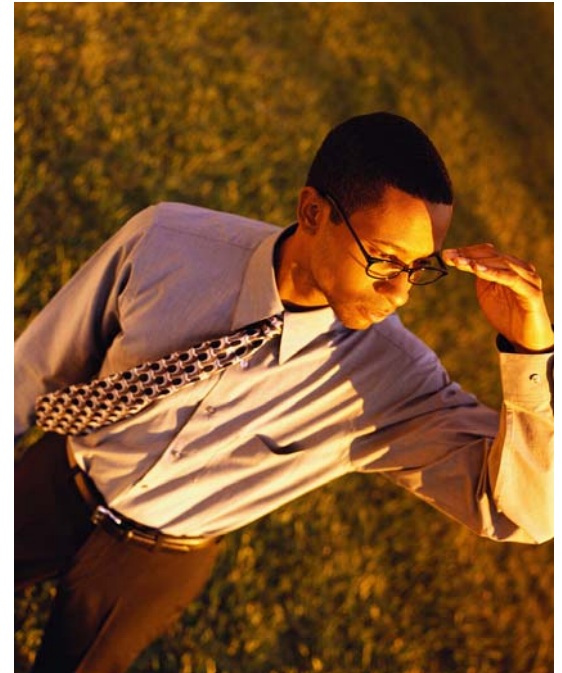


# The problem ...

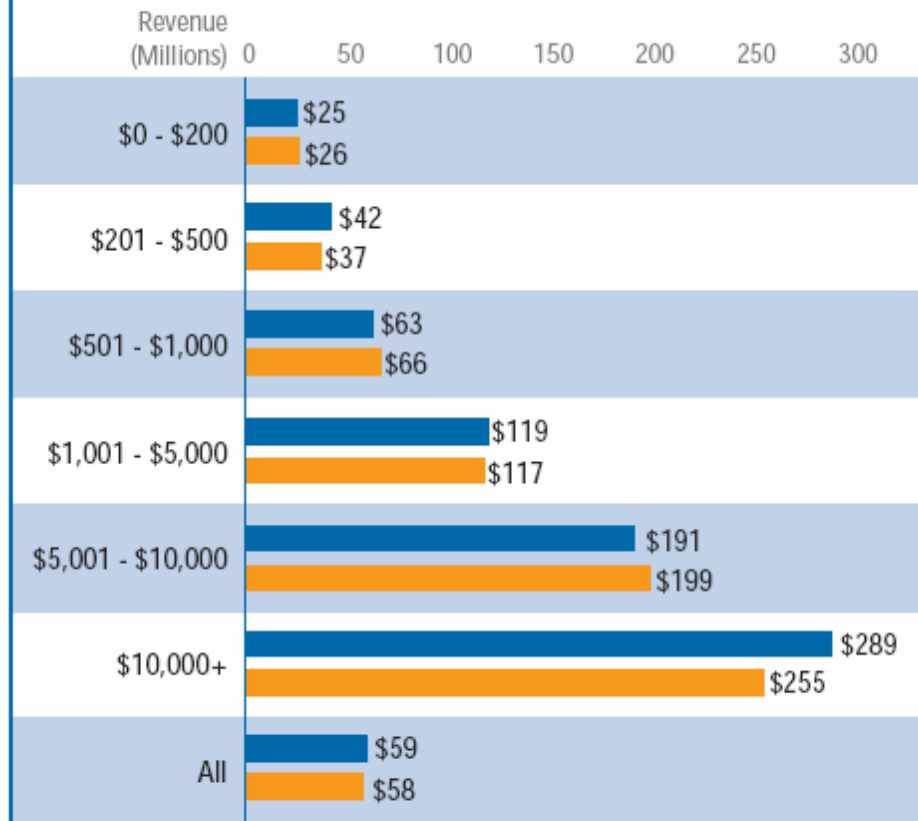
- “Correct” limit difficult to assess
- Theoretically no upper limit!!!
- No clear measure as in insuring an asset
  
- But ... potentially detrimental effect on
  - financial situation
  - reputation → corporate social responsibility
  - customer relations

# A possible solution ...

- Historical loss patterns
- Industry risk assessment
- Coverage availability
- Price and affordability
- Corporate philosophy



### Average Limits Purchased—Global (in millions)



■ 2004 ■ 2005

Source: Marsh – Limits of Liability 2005

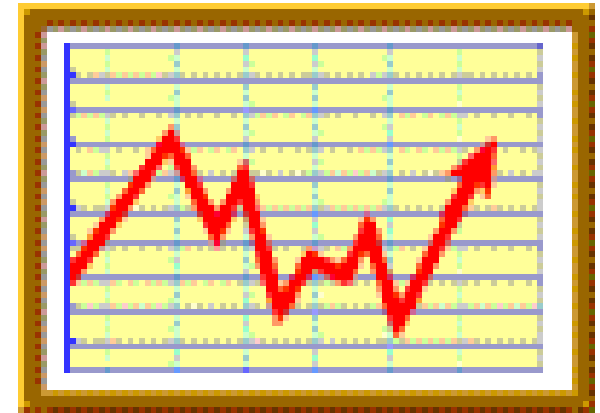
# What influences Liability claims?

- Economic factors  
e.g. interest rates, medical expenses,  
property values, wages
- Societal trends and longer life spans
- Expenditures of legal system
- Amount of liability insurance cover



# Issues related to Liability Claims

- Claims grow fast
- US liability claims have skyrocketed since 2000
- The tail grows ...
- Shift from fault-based to strict liability
- "Deep pocket" approach
- Class actions



# Keep in mind!!!

- Average cost of litigation
- Review limits regularly
- Emerging risks
- Reliable insurer
- Insurer network

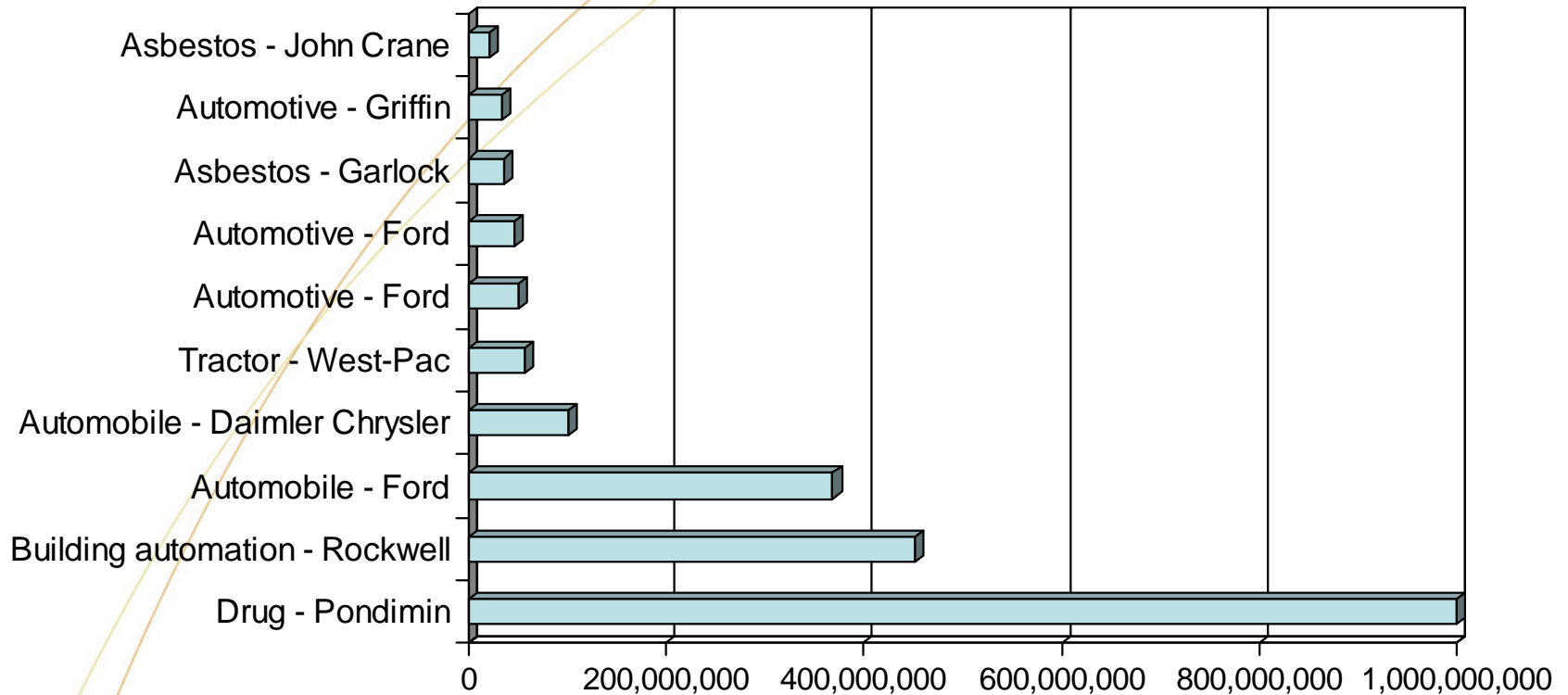


# Range of large Liability Losses

Country	Occurance	Description	Damages
Germany	1/31/2005	The potential claimant, a major car manufacturer has suffered substantial financial loss including costs involved in decreased production and closure of manufacturing facilities following the use of defective diesel injection pumps manufactured and supplied by the defendant company	\$255,000,000
France	5/23/2004	The potential claimants are those injured, the families of those who died and several other parties who suffered economic loss when terminal 2 E of the main airport in Paris collapsed. (THE CLAIM IS PENDING)	\$246,000,000
United Kingdom	01/08/2004	The claimant, a stock broking company is bringing a claim against the defendant, a newspaper alleging the defendant printed libel comments about a former employee which led to a sharp fall in the claimant's share price. The claim is due to be heard in November 2005.	\$66,000,000
France	10/14/2004	The claimant, a company suffered loss and was forced to shut its operation down after the defendant, a chemicals company refused to make delivery of chlorine gas after alleging that the fixed price of their contract was too low.	\$52,000,000
United Kingdom	09/01/2004	The claimants, an estimated 1,750 passengers suffered financial loss after paying for a cruise aboard a ship owned and operated by the defendant, a cruise operator. The ship, which was on its maiden voyage failed to leave port for eleven days and then was forced to return following mechanical problems.	\$37,000,000

Source: Marsh – Insurance Buyer Report

# Large Product Liability Losses



Source: Marsh – Limits of Liability 2005

# What is the Difference?

- **Public Liability**  
Lack of care causes bodily injury/property damage
- **Product Liability**  
Your product causes bodily injury/property damage
- **Professional Indemnity**  
Lack of professional care causes financial loss
- **Directors' & Officers' Liability**  
Directors' & Officers' are personally held liable

# Claims Examples



# Strict Liability

**“The producer shall be liable for damages caused by a defect in his product.”**

Art. A1 EU Directive on Liability for Defective Products of 25.7.1985

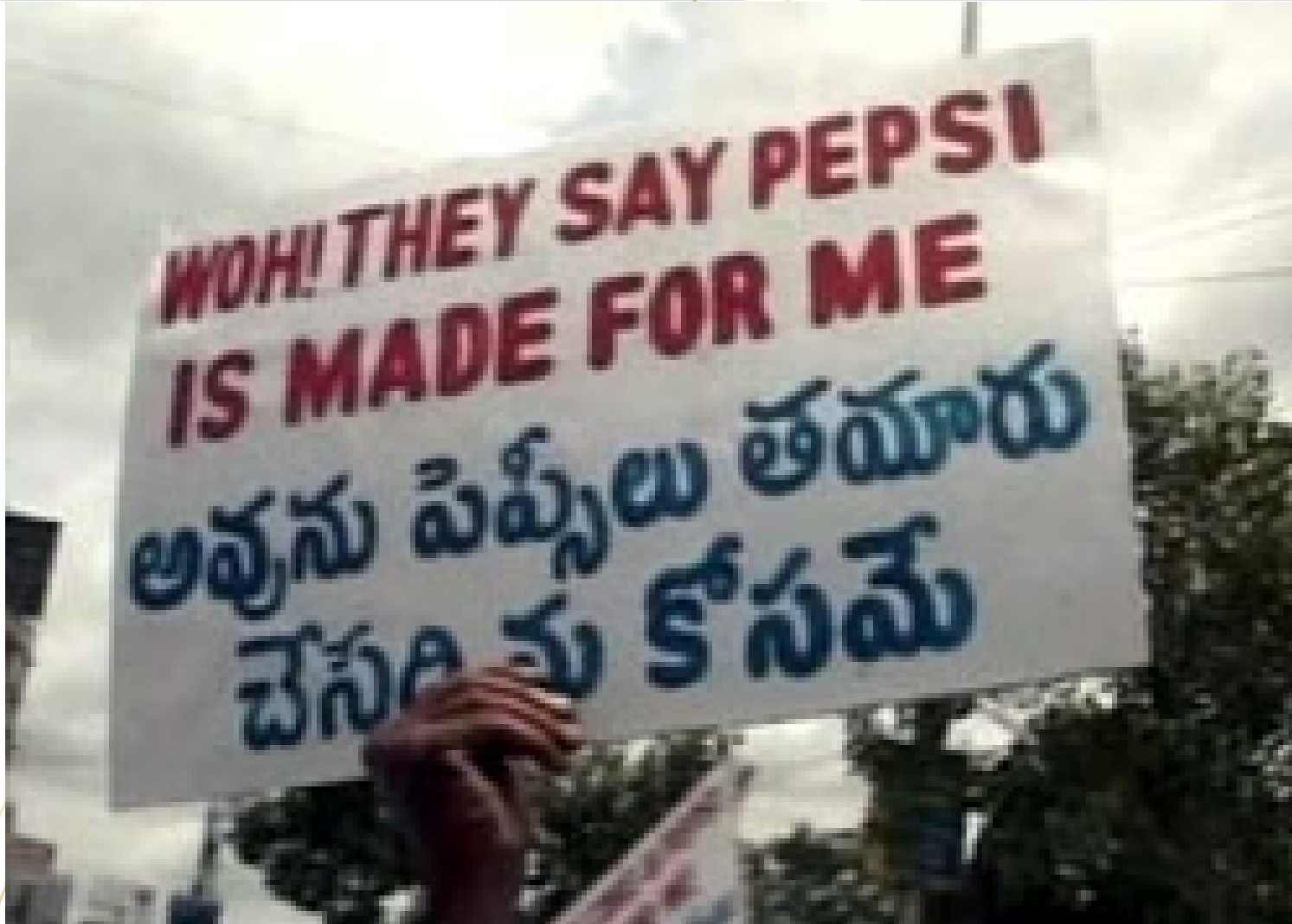


**Burden of Proof**

# Product Liability: Who takes it out?

- The obvious ones in the past:
  - Automotive
  - Pharmaceutical
  - Tobacco
- Today:
  - Broader use by any company manufacturing or distributing products or product components

# Product Liability?



# D&O Liability – Recent Settlements

## Cendant Corp, USA - \$2.83 billion

The lawsuit alleged that the defendants artificially inflated the company's stock price through an accounting fraud, which resulted in the company restating its financial statements for several years

## TIG Holdings , USA – GBP 100,000,000

The suit alleges that TIG and two of its officers inflated the share prices for a period throughout 1997/98

## Banco di Napoli, Italy – GBP 300,000,000

The current management of Banco di Napoli are suing former executives and their auditors, Price Waterhouse, for negligence arising out of bad and doubtful loan losses posted in July 1996

## Sumitomo Corp, Japan - GBP 1,000,000,000

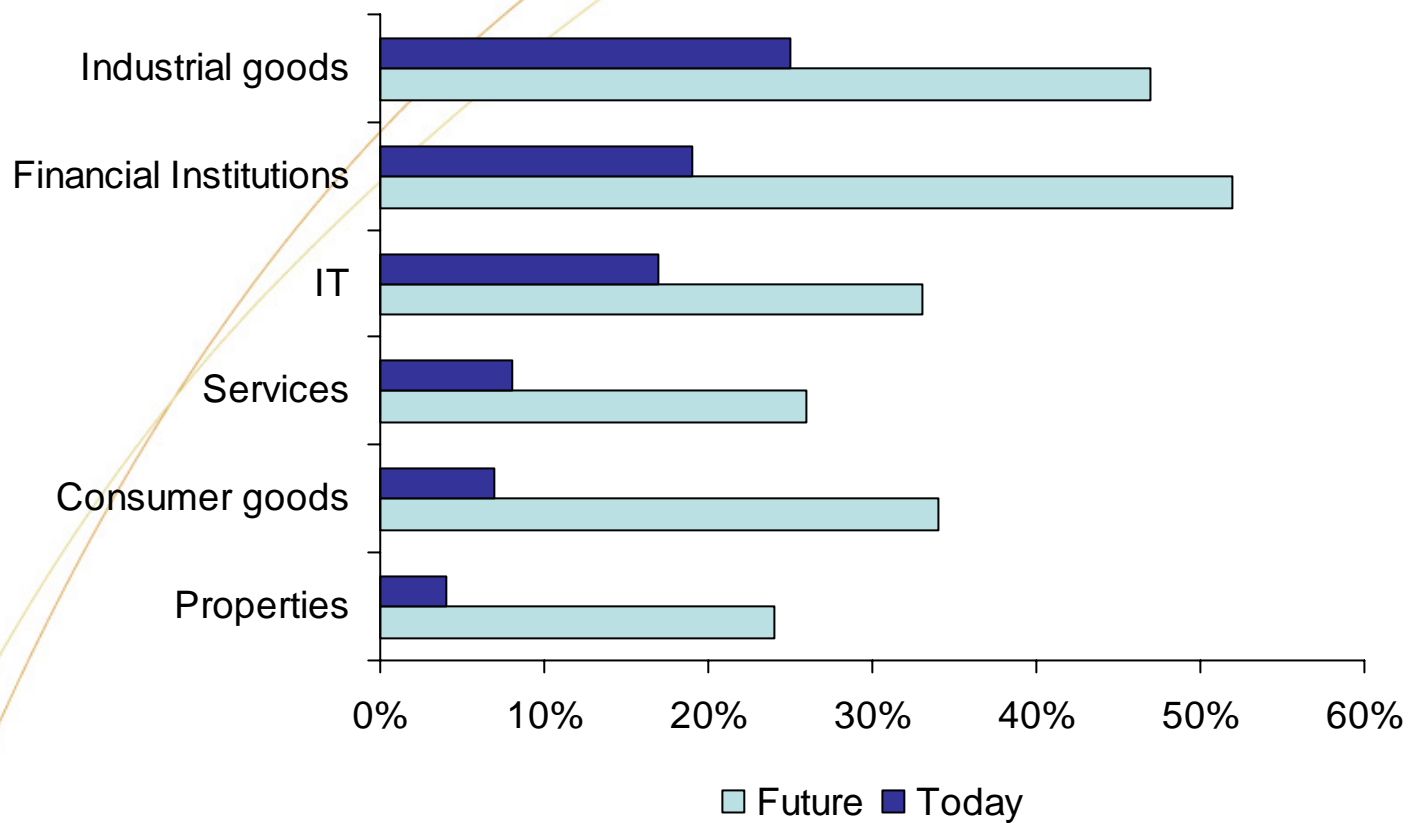
Shareholder suit vs former chairman and 4 former executives – derivative action for lack of supervision which enabled Copper trader to rack up GBP 1.6 billion losses in unauthorized dealing and falsifying documentation

# D&O Liability - Who can claim?

- Shareholders
- Creditors
- Employees
- Regulators
- Customers
- Competitors ...



# D&O Liability – Risk Perception



Source: JLT – Survey on D&O Hong Kong

# Other Liabilities ...

- Environmental Impairment Liability
- eCommerce - Cyber
- IPO – Public Offering
- Patent Infringement
- Crime – Fidelity Guarantee

